

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Tazwell L. Anderson, Jr.	:	
	:	Art Unit: 2623
Serial No.: 10/630,069	:	
	:	Examiner: Vu, Ngoc K
Filed: July 30, 2003	:	
	:	
For: ELECTRONIC HANDHELD	:	
AUDIO/VIDEO RECEIVER AND	:	
LISTENING/VIEWING DEVICE	:	

APPELLANTS' BRIEF

Mail Stop: Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

The Notice of Appeal in this Application was filed on August 27, 2008. This Appeal Brief is being filed on October 22, 2008.

Table of Contents

This brief contains the following sections under the headings and in the order set forth below.

- I. Real Party in Interest
- II. Related Appeals and Interferences
- III. Status of Claims
- IV. Status of Amendments
- V. Summary of Claimed Subject Matter
- VI. Grounds of Rejection to be Reviewed on Appeal
- VII. Argument
- VIII. Claims Appendix
- IX. Evidence Appendix
- X. Related Proceedings Appendix

I. REAL PARTY IN INTEREST

The real party in interest in this appeal is IMMERSION ENTERTAINMENT, LLC having an address at 2931 Paces Ferry Road, Suite 150, Atlanta, GA 30339.

II. RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences which will directly affect, or be directly affected by, or have a bearing on, the decision in this pending appeal.

III. STATUS OF CLAIMS

Presently, claims 2, 5, 6, 9, 11, 13, 20, 22, 23 and 26-45 are pending in the subject application and are on appeal. Claims 2, 5, 6, 9, 11, 13, 20, 22, 23 and 26-45 stand rejected.

IV. STATUS OF AMENDMENTS

A Final Office Action was mailed on May 2, 2008 rejecting all of the pending claims (claims 2, 5, 6, 9, 11, 13, 20, 22, 23 and 26-45). No claim amendments were filed subsequent to the Final Office Action. A Notice of Appeal was filed on August 27, 2008 with a Request for Oral Hearing. This Appeal Brief is now being submitted.

V. SUMMARY OF CLAIMED SUBJECT MATTER

The following summary does not limit, in any manner whatsoever, the claim interpretation. Rather, the following summary is provided only to facilitate the Board's understanding of the subject matter of this appeal.

Various embodiments of the invention relate to a portable wireless handheld device used in connection with an audio/video system to receive and process video and/or audio signals. The device displays images to a user or produces sound audible to the user and provides for capturing and storing images or continuous video (Abstract). More specifically, the invention is defined claim-by-claim as set forth below with drawing reference numerals and supporting paragraph citations from the present application..

Independent claims 26, 31, 32 and 33 generally concern a portable wireless handheld device 12' (Figure 3) to be used at an event by a user while watching the event live (paragraph 9). The portable wireless handheld device comprises a receiver 60 to receive video content transmitted wirelessly to the receiver 60 (paragraph 29). The video content 14 is generated by a plurality of cameras located at the event and the video content relates to the event (paragraph 21). The device 12' further comprises a user interface 67 has inputs to permit a user to select the video content 14 from at least one of the plurality of cameras (paragraph 32).

The device 12', further comprises a processor 62 selectably operated by a user to select video content from at least one of the plurality of cameras, and a display 64 to display video content from at least one of the plurality of cameras selected by the user (paragraph 32). The receiver 60 is configured to receive the video content while at the event and where the event is occurring, thereby permitting the user to carry the portable wireless handheld device 12' about the event and choose where to view the video content selected by the user while roaming at the event during the event (paragraph 40).

Claim 26 further defines the device 12' to comprise a memory component 66 to store a user-designated portion of the video content, wherein the user-designated portion of the video content to be stored in the memory component 66 is selected and entered by the user through the user interface 67 (paragraph 37). The user interface 67 of claim 26 also has an input to permit the user to select, for storage in the device, a user-designated portion of the video content from the selected one of the plurality of cameras (paragraphs 32, 33, 34 and 37).

Claim 31 differs from claims 26, 32, and 33, in that claim 31 further recites an optics system 70 that, when directed toward the local event, provides binocular functionality to produce magnified video content separate and independent from the video content produced by the plurality of cameras and received by the receiver 60 (paragraphs 29 and 35). Claim 31 further defines the user interface 67 to have inputs to permit a user to select the video content from at least one of the plurality of cameras and the magnified video content from the optics system, (paragraph 34). Claim 31 further defines the display 64 to display video content from at least one of the plurality of cameras selected by the user and to display the magnified video content from the optics system 70 (paragraph 32).

Claim 32 differs from claims 26, 31 and 33, in that claim 32 further recites that the device 12' comprises a digital camera 70, 80, 82, provided in the handheld housing 12', for capturing at least one of images and video (paragraphs 34 and 44) and that the processor 62 operates in a plurality of modes, wherein the plurality of modes comprises each of a video viewer mode, and a digital camera mode (paragraph 47).

Claim 33 differs from claims 26, 31 and 32, in that claim 33 further defines the receiver 60 provided in the handheld housing, to wirelessly receive live local event-related video content and live remote event-related video content, the live local event-related video content being generated by a plurality of cameras located at the local event and relating to the local event, the live remote event-related video content being generated at the remote event and relating to the remote event (paragraphs 22, 46 and 48), wherein the receiver 60 is configured to receive the live local and remote event-related video content while at the local event and where the local event is

occurring, thereby permitting the user to carry the portable wireless handheld device about the local event and choose where to view a selected one of the live local and remote event-related video content while roaming at the local event during the local event (paragraph 40).

Claim 33 also recites a digital camera 70, 80, 82 provided in the handheld housing 12', for capturing at least one of images and video (paragraphs 34 and 44). Claim 33 requires that the user interface 67 have inputs to permit a user to select between the live local event-related video content and the live remote event-related video content and to have inputs to operate the digital camera (paragraphs 32, 46 and 47). Claim 33 requires the display 64 to display the live local event-related video content when selected by the user, display the live remote event-related video content when selected by the user, and display the at least one of images and video captured by the digital camera when selected by the user (paragraphs 43, 46 and 47).

Claims 38, 40 and 42 depend from claims 33, 35 and 36, respectively, and further provide that the local and remote events constitute a common type of sporting event (paragraph 46).

Claims 39, 41 and 43 depend from claims 33, 35 and 36, respectively, and further provide that local and remote events both constitute football games (paragraph 46).

Claim 2 depends from claim 26 and provides that the receiver 60 is configured to receive audio signals 15 relating to the event, and further comprising an audio component 63 configured to provide event content for listening based upon at least one of the audio signals 15 selected by a user (paragraph 29).

Claim 5 depends from claim 26 and provides that the memory component 66 is controlled by the user interface 67 to access and replay the stored user-designated portion of the event-related video content 15 on the display 64, thereby permitting the user to review again and again, as desired, the stored user-designated portion of the video content independent of new live video content received by the receiver 60 (paragraph 37).

Claim 6 depends from claim 26 and further provides that the memory component 66 is a removable memory module configured to allow for downloading of the stored user-designated

portion of the event content 15 to an external device (paragraph 37).

Claim 9 depends from claim 26 and provides that the processor 62 operates in a plurality of modes, wherein the plurality of modes comprises each of a video viewer mode, a digital camera mode and a camcorder mode (paragraph 47).

Claim 11 depends from claim 26 and comprises an optics system 70 provided as part of a housing to capture images of the event when directed toward the event (paragraph 29 and 35).

Claim 13 depends from claim 26 and further comprises an optics system 70 provided as part of a housing to capture images of the event when directed toward the event, the optics system 70 comprising a charge coupled device and being configured to provide a plurality of magnified modes of operation (paragraph 35).

Claim 20 depends from claim 26 and provides that the display 64 is configured for viewing by a user when engaged with the user's face (paragraph 28 and 36).

Claim 22 depends from claim 31 and provides that the processor 62 is configured to provide conditional access to the event content based upon a unique access code.

Claim 23 depends from claim 31 and further comprises a user input 67 selectably operable by a user to control the images and sounds provided to the display and audio system (paragraph 47).

Claim 27 depends from claim 26 and provides that the user interface 67 permits the user to selectively store single individual images, to be reviewed again and again on the display as desired by the user (paragraph 37).

Claim 28 depends from claim 26 and provides an optics system 70 that, when directed toward the event, provides binocular functionality, the display displaying video content from the receiver when in a video viewer mode and a magnified view of the event as detected by the optics system when in a binocular mode (paragraph 29 and 37).

Claim 29 depends from claim 26 and further provides an optics system 70 that, when

directed toward the event, provides binocular functionality, the display 64 displaying a magnified view of the event as detected by the optics system when in a binocular mode, the user interface including inputs to select between different magnification levels at which the magnified view of the event is presented on the display (paragraph 35).

Claim 30 depends from claim 26 and provides an optics system 70 to detect user-controlled video content separate and independent from the video content produced by the plurality of cameras and received by the receiver (paragraph 29 and 37).

Claim 34 depends from claim 33 and provides that the processor 62 operates in a plurality of modes, wherein the plurality of modes comprises each of a video viewer mode, a binocular viewer mode, a digital camera mode and a camcorder mode (paragraph 47).

Claims 35-37 depend from claims 26, 31 and 32, respectively, and further provide that the receiver 60 wirelessly receives live remote event-related video content generated at a remote event and relating to the remote event, the remote event occurring simultaneously with the local event, the remote event occurring at a venue remote from the local event, the display 64 displaying the live remote event-related video content when selected at the user interface (paragraphs 22, 24 and 46).

Claims 44 and 45 depend from claims 33 and 32, respectively, and provide that the digital camera 70, 80, 82 further comprises a charge coupled device as part of the handheld housing to capture the images of the event when directed toward the event, the charge coupled device being controlled by the processor to provide a zoom capability (paragraph 35).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 26-30, 35, 40, 41, 2, 5, 6, 9, 11, 13, and 20 are unpatentable under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement.

Whether claims 33, 34, 36-39, 42, and 43, are unpatentable under 35 U.S.C. § 103(a) over Burg et al. (US Patent No. 6,782,238 B2) (hereinafter "Burg") in view of Ng (US20030204630 A1) (hereinafter "Ng").

VII. ARGUMENT

Claims satisfy 35 U.S.C. § 112, First Paragraph

Claims 26-30, 35, 40, 41, 2, 5, 6, 9, 11, 13 and 20 have been rejected under 35 U.S.C. § 112, first paragraph, as purportedly failing to comply with the Written Description requirement. In the Final Office Action, it is maintained that claim 26 recites a feature which, in the view of the Examiner, was not described in the original specification. The feature at issue is “having an input to permit the user to select, **for storage in the device, a user-designated portion of the video content from the selected one of the plurality of cameras**”. The undersigned respectfully disagrees and traverses the Examiner’s assertion.

It is submitted that claim 26 does satisfy the Written Description requirement of 35 U.S.C. § 112, first paragraph. The application, as originally filed, clearly evidences that the inventor possessed the claimed invention including the feature of permitting the user to select a “user-designated portion” of the received video content for storage in the device. In particular, attention is directed to the following sections of the present application, beginning in the Summary of the Invention (paragraph 12) which provides the following (emphasis added):

Specifically, in one embodiment, a portable device includes a receiver for receiving signals relating to an event, a display configured to provide event content for viewing based upon at least one of the video signals **selected by a user**, and a memory component configured to **store event content**.

Further, attention is directed to various portions of the discussion of the embodiment of Figure 3 (reproduced below).

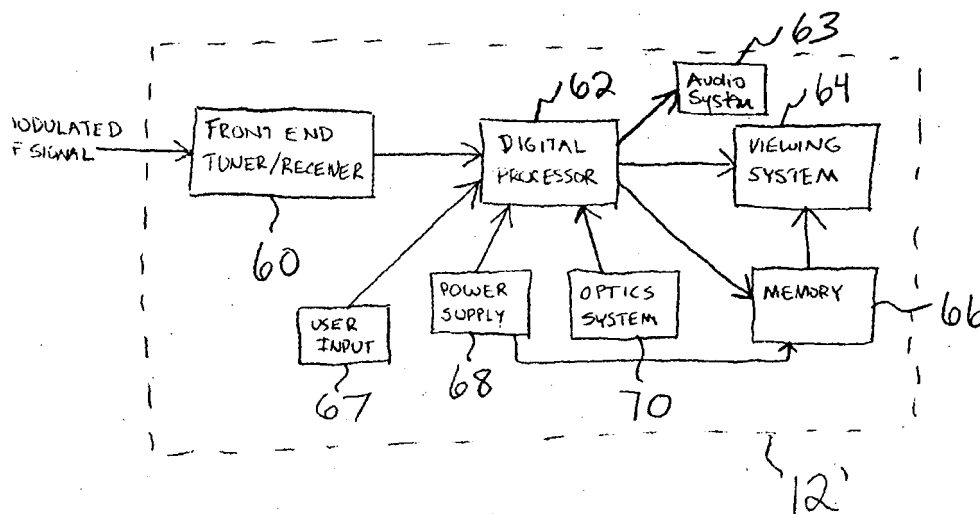


FIG 3

The present application describes, in connection with the embodiment of Figure 3, a video/audio receiving system 12' (paragraph 29) that has, among other things, a receiver 60, a processor 62, a viewing system 64, a user input 67 and memory 66. As explained at paragraph 29, the receiver 60 receives an RF signal containing video content 14 that is displayed on viewing system 64. The memory 66 stores content in various manners including the following:

In one embodiment, the video/audio receiving system 12' includes a **memory 66 for storing video or audio content as described herein**. A power supply 68 is also provided for powering the video/audio receiving system 12', and specifically the digital processor 62 and memory 66. The video/audio receiving system 12' also includes an optics system 70 for capturing images of an event, which are then processed by the digital processor 62 for display on the viewing system 64 or storage within the memory 66. (emphasis added, paragraph 29).

The present application goes on to explain, at paragraph 31, that the digital video/audio output of the receiver 60 is provided to the digital processor 62, wherein the received signals are processed "for display on the viewing system 64 or **for storing in the memory 66 for later access and display**". At paragraph 32, the present application explains that the "memory 66 and optics system 70 are configured such that the processed video and audio signals 14 and 15 which may include, for example, live view, real and **recorded video and stored video** and digital

images may be viewed using the viewing system 64”. Paragraph 32 further explains that “the digital processor 62 interfaces directly with both the front end tuner/receiver 60 and the optics system 70 such that a user, via hardware and/or software controlled using a user input 67 can select the desired viewing or audio input.” (paragraph 32). Paragraph 33 provides some examples of what may be stored in the memory 60, giving the following examples (emphasis added):

Additionally, the output of the digital processor 62, for example in the form of still images or **continuous video, may be stored in the memory 66. The stored images/video may then be available, for example, for future viewing using the viewing system 64**, or downloading to a printer or computer for further processing.

From the foregoing, it seems very apparent that the inventor had possession, at the time of the invention, of the concept of storing portions of the video content, received by the receiver 60 in the memory 66.

Moreover, the claims as originally filed in the present application, on July 31, 2003, clearly evidence that the inventors had possession of the concept of storing portions of the video content that is received at the receiver 60 in the memory 66. Claim 1 as originally filed in the present application recited a portable device comprising, among other things, “a memory component configured to store event content.” Dependent claim 5 further required that “the memory component is configured for access to view the stored event content on the display.” Dependent claim 6, as originally filed, further provided that “the memory component is configured to allow for downloading of the stored event content to an external device.” The event content that is stored in the memory is not simply random, and is not beyond the control of the user. From the original filing date, it has always been understood and intended that the event content stored in the memory is selected by the user. To store random event content is illogical and would have no value to a user. The purpose of storing event content for “later access to view” (as recited in original claim 5) or to “allow for downloading” to an external device (as recited in original claim 6) would only be of interest if the user could save a portion of the game

that the user wanted to keep and later watch again.

Further, the present application discusses at multiple locations, the inventors' intention to permit the user, through the user interface, to designate the portion of the received video content that the user wishes to store and then replay. In particular, paragraph 34 of the present application lists specific functions provided at the user input 67 to allow the user to select a designated portion of the received video content for storage. Paragraph 34 provides that the user input 67 may include a multifunction button, such as a standard NSEW four position button, that allows the user to select the mode of operation, as well as other features specific to a particular mode. Paragraph 34 provides examples of some of the features specific to different modes, such as record, playback and telephoto settings. In addition, paragraph 34, provides the following example (emphasis added), "For example, this may include telephoto options, video record time, **start, stop, rewind**; image store (e.g., take a picture); store a continuous view (e.g., camcorder recording), etc. Additionally, the user input buttons may be used to control other functions, such as for example, volume and video channel selection." Thus, it is submitted that the user input 67 is specifically described to have the functionality to start a recording, stop a recording, rewind and playback a recording. These specifically listed functions to start recording, stop recording and rewinding could only be used to designate a portion of a video content for storage as claimed in claim 26. To restate the obvious, when a user presses a start record button and then presses a stop record button, the user has just designated a "user-designated portion of the video content" for storage.

Further, paragraph 37 expressly describes a particular use of the memory 66 in which the user performs the claimed function of selecting and storing a user-designated portion of video content. Specifically, at paragraph 37, it explains examples of what may be stored in the memory 66 and how the user may use the stored video and audio as follows (emphasis added):

The memory 66 may be provided using permanent memory, removable memory (e.g., DRAM), or a combination of both, such that user may store single images and/or continuous video. The stored images and/or **continuous video may be, for example, reviewed or replayed at the event to ensure that the contents**

stored is what is desired or needed by the user or to allow a user to view part of the event again (e.g., view a close call in a football game).

The above quoted portion of paragraph 37 very clearly and specifically shows that the inventors intended the device to allow the user to store video content that the user desires or needs. Otherwise, it would be illogical for the stored video to be “reviewed or replayed at the event to ensure that the content stored is what is desired or needed by the user to allow a user to **view part of the event again.**” When the above-noted specific teaching are compared to the claim language at issue in the Final Office Action, it is clear that the subject application satisfies the Written Description of § 112, first paragraph for claim 26. The present application, in multiple places, clearly shows that the inventors intended for the user input 67, through the start record and stop record buttons, to permit the user to designate which portion of the video content should be stored. When the user designates a portion of the video content for storage, by definition that portion constitutes a “user-designated portion.” Similarly if the user input 67 permits a user to select a portion of the video content for storage, then the portion stored in the memory will constitute a “user-designated portion of the video content.” Thus, it is submitted that the above noted sections clearly show that the inventors described, and considered to be part of their invention, the ability to use the user input 67 to select a part of the incoming video and have that selected/designated part to be stored in memory for later review or downloading. Paragraph 37 could not be clearer in this regard. Paragraph 37 specifically states that stored video may be reviewed or replayed at the event to ensure that the content stored is what is desired or needed by the user or to allow a user to view part of the event again. Therefore, it is submitted that the outstanding rejection under 112, first paragraph, is improper and should be withdrawn.

In the outstanding Final Office Action, the only rejection of Claims 26-30, 35, 40, 41, 2, 5, 6, 9, 11, 13 and 20 is the Written Description rejection under 35 U.S.C. § 112, first paragraph. Given that this rejection is improper and should be overturned for reasons noted above, it is submitted that the above claims are now patentable over the prior art of record and should be

indicated allowable.

Claim 33 is Not Obvious under 35 U.S.C. § 103(a) over Burg in view of Ng

Claim 33 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Burg in view of Ng. Applicants respectfully traverse this rejection for reasons set forth hereafter.

It is respectfully submitted that no legitimate reason exists to modify the system of Burg based upon the teachings of Ng in a manner that would render obvious the claimed invention.

As outlined in the Summary of Claimed Subject Matter section above, claim 33 concerns a portable wireless handheld device 12' to be used at a local event by a user while watching the local event live (paragraph 46). Claim 33 provides that a remote event occurs simultaneously with the local event and that the remote event occurs at a venue remote from the local event (paragraph 46). Claim 33 defines a portable wireless handheld device 12' that comprises a handheld housing, a receiver 60, a digital camera 70, 80, 82, a user interface 67, a display 64 and a processor 62 (paragraph 29). Each of the foregoing structural elements of the portable wireless handheld device are further defined in claim 33. The receiver 60 is required to receive live local event-related video content and live remote event-related video content (paragraphs 22, 46 and 48). The live local event-related video content is generated by a plurality of cameras located at the local event, while the live remote event-related video content is generated at the remote event and relates to the remote event (paragraphs 24 and 46). The receiver 60 receives the live local and remote event-related video content both while at the local event (paragraph 46). The user interface 67 has inputs to permit the user to select between the live local event-related video content and the live remote event-related video content (paragraphs 34 and 46). The display 64 displays the live local event-related video content when selected and displays the live remote event-related video content when selected (paragraphs 43, 46 and 47).

In the outstanding Office Action, it is conceded that “Burg does not explicitly teach the receiver receiving live remote event-related video content generated at a remote event and relating to the remote event, the remote event occurring simultaneously with the local event, the

remote event occurring at a venue remote from the local event, the display displaying the live remote event-related video content when selected at the user interface.” (Page 7 of the Final Office Action). The Final Office Action goes on to reason that it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Burg to receive live event content from multiple locations and sources occurring simultaneously as taught by Ng “in order to provide different live programs to viewers to increase value of entertainment.” (Page 7 of the Final Office Action). The Final Office Action further reasons that it would have been obvious to one of ordinary skill at the time of the invention to modify the system of Burg “by displaying the selected one of the live events from multiple simultaneous sources and locations in order to provide viewers the desired live programs selectively.” (Page 7 of the Final Office Action).

When the teachings of Burg and Ng are fully considered, and compared and contrasted with one another, it is clear that their combined teachings when taken as a whole do not render obvious the claimed invention. Burg and Ng describe fundamentally different system architectures, are concerned with entirely unrelated problems and Burg’s device could not perform its intended purpose if modified to work with Ng’s network. Figures 1 and 3 of Burg are reproduced below.

Figure 1A

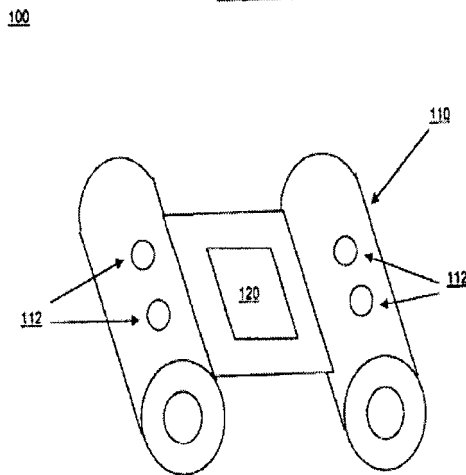
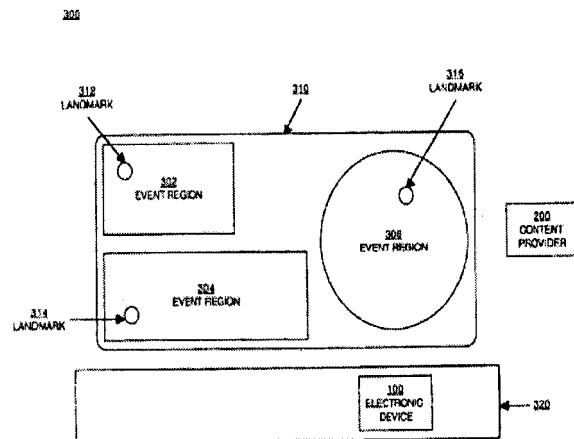


Figure 3



Burg concerns a method for presenting media on a handheld electronic device 100 (see Figure 1A above) that is taken by a spectator to a sporting event 300 (see Figure 3 above). Figure 3 illustrates an overhead diagram of a sporting event 300 where a single field 310 is divided into different regions 302, 304, 306 (Col. 5, lines 1-13). A landmark 312, 314 and 316, such as flashing light or colored light (Col. 3, lines 39-47), is located in each region 302, 304 and 306 (Col. 5, lines 14-20). Each landmark 312, 314 and 316 is uniquely associated with the corresponding region. Burg's user points the device 100 at one of the landmarks 312, 314 and 316 to hear/watch audio/video from the corresponding region 302, 304 and 306.

Burg, explains, in the Background of the Invention that, in the past, spectators brought portable TVs to sporting events but the spectator could not select which camera to watch (Col. 1, lines 31-39). A primary aspect of Burg's invention is to include, within the electronic device 100, a landmark sensor 122 that is used to identify landmarks 312, 314, 316 at an event 300 when the user focuses the electronic device 100 on a desired landmark (Col. 3, lines 29-38). When the user focuses the electronic device onto a landmark, the landmark sensor 122 in the Burg's electronic device 100 detects the landmark and uniquely identifies the landmark based on a characteristic of the landmark (Col. 3, lines 39-47). The electronic device 100 then selects a media associated with the region based on the landmark and presents the media for the selected region 302, 304, 306 on the electronic device 100. Burg's system is concerned with, and focused upon, providing local media to the spectator, by associating local media with the landmarks that the spectator can see and focus on through line-of-sight with the device 100. Nowhere does Burg suggest that the electronic device could or should present to the spectator, remote event-related content for a live remote event occurring simultaneous at a remote venue.

Ng fails to make up for the deficiencies of Burg. Figure 1 of Ng is reproduced below to emphasize the divergent teachings of Ng as compared to Burg.

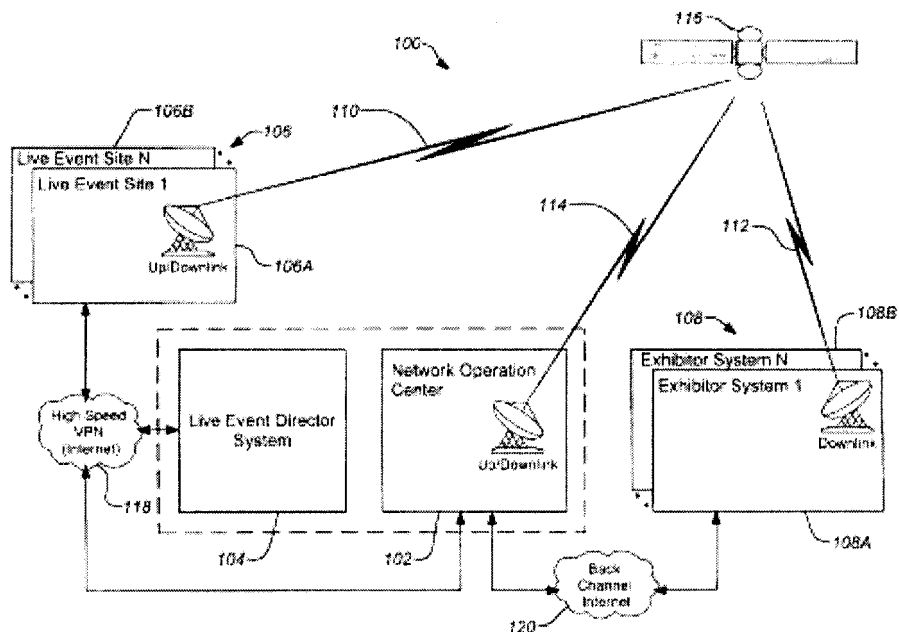


FIG. 1

Ng concerns a system 100 that includes a network operation center 102, a live event director system 104, and a plurality of live event sites 106 and one or more exhibitor centers 108. Also, Ng's architecture requires that each exhibitor system 108 include a satellite uplink, a satellite downlink and a backchannel internet 120 connection. Burg's system lacks any satellite uplink/downlink and is unable to support a backchannel internet link with each device 100. The transmissions from each of the live event sites 106 are synchronized by the live event director system 104 and only one live site 106 is transmitting to the exhibitors systems 108 at a time. Ng explains that "Thus, only uplink from one of the live event sites 106 is active at a time. The network operation center 102 manages access control of the exhibitors systems 108 to the overall broadcast through satellite link 114." (Paragraph 28).

One substantial difference in the architectures of Ng and Burg is that Ng's system is designed to service exhibition systems 108 that are located separate and apart from all of the event sites 106. The exhibition systems 108 are not located at any of the event sites 106. Ng gives examples of events in paragraph 14, such as the Olympics, conferences, company

meetings, political conventions. Ng does not suggest that there is any reason to provide an exhibition system at any of these events. Instead, Ng is concerned with broadcasting the Olympics, company meetings, etc. in high definition to exhibition systems 108 nationwide or worldwide. Therefore, Ng provides absolutely no reason to transmit remote event content to any device at a local event whether it be Burg's handheld devices 100 used by individual spectators at a local event or otherwise.

Also, Ng's architecture requires that each exhibitor system 108 include a satellite uplink, a satellite downlink and a backchannel internet 120 connection. Burg's system lacks any satellite uplink/downlink and is unable to support a backchannel internet link with each device 100.

Another primary difference in the architectures of Ng and Burg is that Ng's system requires that the event director system 104 have complete control over which event content is transmitted to each exhibition system. As explained in paragraph 29, the live event director system 104 synchronizes the transmission among the plurality of live event sites 106 so that only the live video source from one selected live event site 106 is transmitted for exhibition at one site. Ng explains that "coordination of video transmission from the plurality of live event sites 106 must be done with great precision so that there is no detectable lapse or overlap between the transmissions of separate live event sites 106 received at the exhibitor systems 108." (paragraph 29). In paragraph 30, Ng explains how the overall broadcast must be managed for coordination, stating "coordination of the overall broadcast is managed over a less costly, lower director system bandwidth communication link between the live event sites 106, the live event 104 and the network operations center 102." (paragraph 30). For example, Ng uses a high speed VPN 118 over the internet, as well as a backchannel internet 120 connection which may be used to connect the exhibitors systems 108 and the network operation center 102 for access and billing (paragraph 30). In contrast, Burg provides control at the devices 100 controlled by individual spectators over which media is displayed .

This difference, in who controls which content to display, is quite significant and

core to the objectives of Ng and Burg. An object of Ng's invention is to reduce the bandwidth required to broadcast high definition digital video in order to reduce overall broadcast cost. Ng achieves this goal by using "a live event director system (LEDS) to coordinate among the multiple live event sites and selects only one live event site to broadcast directly to the exhibitions at any given time." (paragraph 24, emphasis added). In this regard, Burg's goal is diametrically opposed to Ng. Burg seeks to de-centralize control. Burg points out that, before Burg's invention, spectators could only watch through portable TVs the images that were selected by the video provider (Col. 1, lines 31-39). Burg's primary goal is to give the individual spectators the ability to separately choose which cameras they want to watch through selection of landmarks (Col. 1, lines 51-54). Given the opposed solutions of Ng (centralized control) and Burg (de-centralized control), the person of ordinary skill would have no legitimate reason to modify Burg's device to receive Ng's content because in doing so, Burg's spectator would necessarily lose control over which content to view. Ng's system requires that all content go to the central event director system 104 that select which single content is transmitted in order to limit bandwidth requirements of the high definition content. The person of ordinary skill would not be able to reconcile the above noted core differences between Ng's and Burg's architectures and goals in any way that would render obvious the presently claims invention. Again claim 33 requires the handheld wireless devices to permit users to individually select between, not only multiple camera views of the local live event that the spectator is attending, but also to select remote event control for an event occurring simultaneously at a remote venue.

Further, modifying Burg's device 100 to receive the content, which is broadcast by Ng's network, would render Burg's device inoperative for its intended purpose. Burg provides device 100 with a landmark sensor 122 in order to permit the spectator to focus on one part of the field to hear or view spectator chosen content, namely to hear players or hear the referee or view the event from cameras close to the action (Col. 4, lines 32-43). If modified to use Ng's network, the Burg's devices 100 would no longer give the spectator control over which camera to view.

Ng's system does not use, nor even mention, portable handheld devices. Instead, Ng

describes a complex satellite based system that uses a bandwidth efficient and secure method to combine all live events to enable high definition or cinema quality live events from multiple sources to be broadcast worldwide (paragraph 14 in the Summary of the Invention). Ng describes, in the Summary of the Invention, embodiments that employ a bandwidth efficient technique that enables events such as Olympic games, major events, conferences, company meetings, political conventions and political campaigns to be broadcast in high definition or cinema quality nationwide or worldwide in a cost effective manner (paragraph 14). Significantly, the only manner by which Ng displays the content at any of Ng's exhibition sites is on a large screen that is commonly viewed by all of the attendees at one exhibition site. Ng intends each exhibition site to use a single projector to display HD or cinema quality video. Ng's network relies on a single event director system to choose which single live event site 106 is transmitted in HD and viewed at each exhibitor system 108 (paragraph 29). To provide high definition video, Ng uses a downlink antenna 22, a satellite receiver 204, data storage 206, a decryption unit 208, a decompression unit 210, and a single display device 212. The display device is a stationary display that is not handheld, not portable and not wireless. Ng's display is a digital projector that can be used to project a high definition or cinema quality image to a screen (paragraph 36). There is no suggestion within Ng that the high definition content from Ng's exhibition events could or should be transmitted to wireless handheld portable devices. Burg's devices 100 are not capable of receiving high definition video. The devices 100 do not include decryption and/or decompression units such as Ng's units 208 and 210 which are necessarily provided at each exhibitor system 108 (Figure 2 and paragraph 33). Therefore, Burg's devices 100 would be incapable of decrypting and decompressing Ng's transmissions. Also, Burg's devices 100 are incapable of displaying high definition video. Finally, Burg's spectators would no longer have any control over which content to view because all of Ng's content first goes to the event director system 100 which transmits only one HD video to all exhibitor systems 108.

In view of the foregoing, it is respectfully submitted that the fundamental differences in

the systems and architectures of Burg and Ng are so substantial that the person of ordinary skill would not have been motivated to modify there teachings in a manner that would render obvious the claimed invention. It is further submitted that the basic objectives and solutions offered by Burg and Ng are so divergent and contradictory that the person of ordinary skill would have been unable to reconcile these differences in any attempted modification, certainly to any extent that would render obvious the claimed invention. In view of the foregoing, it is respectfully submitted that claim 33 is not rendered obvious by the combined teachings of Burg and Ng.

Claims 36 and 37 – Not Obvious over Burg in view of Ng

It is submitted that dependent claims 36 and 37 are not rendered obvious by the combined teachings of Burg and Ng. Claims 36-37 further define the receive 60 to wirelessly receive live remote event-related video content generated at a remote event. Claims 36 and 37 substantially recite the limitations of claim 33 discussed above. Claims 36-37 clearly define that the remote event-related video content relates to a remote event and that the remote event occurs simultaneously with the local event. The remote event occurs at a venue remote from the local event. Claims 36-37 further provide that the display 64 displays the live remote event-related video content when selected at the user interface 67 (paragraphs 22, 24 and 46). As explained above in connection with claim 33, there are numerous reasons why the person of ordinary skill would have had no legitimate reason to modify the system of Burg based upon the teachings of Ng in a manner that would render obvious the claimed invention. In summary, the architectures of Ng and Burg are quite fundamentally different. Ng's network provides all control at an event director system 104 for the video content to be displayed. Ng does not provide any control at the individual spectator level for what content is to be displayed. Ng does not transmit to individual devices. Ng's network broadcast high definition encrypted, compressed video content for display through a projector, whereas Burg's devices are not configured to decrypt, decompress or otherwise process and display high definition video content. Burg's system is built around the desire to provide individual spectators with the ability to select particular audio and video sources. Burg provides this functionality by implementing a landmark sensor in each individual

spectator's electronic device 100. A person of ordinary skill would have no motivation to modify Burg's system to utilize the network taught by Ng, and therefore claims 36-37 are not rendered obvious for reasons noted above with respect to claim 33.

Claims 38-39 and 42-43 – Not Obvious Over Burg in View of Ng

It is submitted that claims 38-39 and 42-43 are not rendered obvious based upon the combined teachings of Burg and Ng and Official Notice. The Final Office Action fails to set forth a prima facie case of obviousness as the Examiner relies on Official Notice in an improper manner. Official Notice without documentary evidence to support an Examiner's conclusion is permissible only in some circumstances. While "Official Notice" may be relied on these circumstances should be rare when an application is under final rejection. Official Notice unsupported by documentary evidence should only be taken by the Examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known. Claims 38 and 42 further define the local and remote events to constitute a common type of sporting event (paragraph 46). Claims 39 and 43 further define the local and remote events to both constitute football games (paragraph 46).

As explained above in connection with claim 33, the person of ordinary skill would have had no legitimate reason to modify Burg's device 100 based upon the teachings of Ng in a manner that would render obvious the claimed invention. Claims 38-39 and 42-43 require that the portable wireless handheld device permit the user through the user interface to select between local and remote events, both of which constitute either a common type of sporting event or specifically constitutes football games. There is no discussion in either Burg or Ng as to managing the particular content of the remote events relative to the local event content. Burg discusses two examples for the types of events at which Burg's device 100 may be utilized, namely at a track and field event or at a football game (col. 4, lines 30-40). However, nowhere does Burg teach or suggest that the spectator would have any interest, or that the device 100 should be rendered capable of, displaying in addition to the local track or local football event, a remote track event or a remote football game. Ng fails to makeup for this deficiency of Burg.

As noted above, Ng does not locate the exhibitors systems 108 at any event site 106. Instead, the exhibitors systems 108 are located remote from all events 106. Ng relies on event director system 104 to control which single live event 106 is broadcast to all exhibitor systems 108. Thus, Ng and Burg do not teach or suggest to group live local and remote event content based on common types of events or based on, more specifically, football games as claimed.

In the outstanding Office Action in the paragraph bridging pages 8 and 9, it is conceded that Burg and Ng do not teach the limitations of claims 38, 39, 42 and 43. Specifically, the Examiner acknowledges that “both [Burg and Ng] do not explicitly teach the events constituting a common type of sporting event or football games.” (Page 8 of the Final Office Action). The Examiner takes Official Notice “that broadcasting sporting events such as football games is well known in the art.” (Page 8 of the Final Office Action). The Examiner goes on to conclude “Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combined teachings of Burg and Ng by providing football games to allow viewers to watch different games as desired.” (Page 8 of the Final Office Action).

The undersigned respectfully traverses this use of Official Notice. The generalization that it is known to broadcast sporting events and football games does not at all form any logical basis to then conclude that it would have then been obvious to modify Burg’s device 100 and Ng’s network to provide local and remote content that constitute a common type of sporting event or more specifically, football games. Instead, it is submitted that a prima facie case of obviousness has not been made with respect to claims 38, 39, 42 and 43.

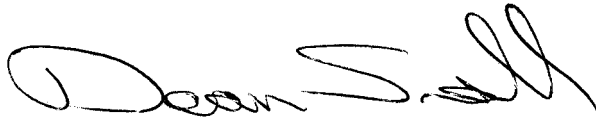
Burg’s electronic device 100 is constructed around the desire to permit spectators, while attending a single event to watch and listen to media associated with that single event. Merely broadcasting sporting events, such as to homes for viewing on network TV programs, would afford no reason to modify Burg’s device to provide to claimed combination of local and remote content. Further, many sports programs are broadcast for network and cable TV. Yet the claims 38, 39, 42 and 43 do not claim any type of sports content. Instead, claims 38, 39, 42 and 43 recite particular combinations of related content. To provide the claimed content, Burg’s system

would need to add an entirely new production facility and transmission infrastructure. There is simply no legitimate reason to make such substantial modifications to Burg's system. The simple generalization that football games are broadcast falls far short of any legitimate rationale that would motivate the person of ordinary skill to fundamentally reconstruct Burg's system. The claimed remote event-related content is not simply already available for reception at a portable device located at a particular event. In order for Burg's device 100 to receive remote event content, a network would need to be implemented to transmit remote sporting events or remote football games to a particular venue at which Burg's electronic devices are being implemented. In addition, electronics and personnel must be implemented to coordinate and manage transmissions of the remote event content in order to provide remote event content for common types of sporting events and/or for football games that are then received at an individual local event.

In view of the foregoing, the general statement upon which Official Notice relies falls far short of any legitimate reason that would motivate a person of ordinary skill to implement the necessary network, content management facilities and personnel necessary to provide the claimed invention. Instead, it is submitted that the outstanding Office Action has not set forth a prima facie case of obviousness with respect to claims 38, 39, 42 and 43.

Accordingly, Applicant respectfully requests that the rejection of all pending claims be withdrawn, and the pending claims allowed. A favorable action is respectfully requested.

Respectfully submitted,



Date: October 22, 2008

Dean D. Small, Reg. No. 34,730
THE SMALL PATENT LAW GROUP LLP
225 S. Meramec, Suite 725
St. Louis, MO 63105
(314) 584-4081

VIII. CLAIMS APPENDIX

2. The portable wireless handheld device of claim 26, wherein the receiver is configured to receive audio signals relating to the event, and further comprising an audio component configured to provide event content for listening based upon at least one of the audio signals selected by a user.

5. The portable wireless handheld device of claim 26, wherein the memory component is controlled by the user interface to access and replay the stored user-designated portion of the event related video content on the display, thereby permitting the user to review again and again, as desired, the stored user-designated portion of the video content independent of new live video content received by the receiver.

6. The portable wireless handheld device of claim 26, wherein the memory component is a removable memory module configured to allow for downloading of the stored user-designated portion of the event content to an external device.

9. The portable wireless handheld device of claim 26, wherein the processor operates in a plurality of modes, wherein the plurality of modes comprises each of a video viewer mode, a digital camera mode and a camcorder mode.

11. The portable wireless handheld device of claim 26, further comprising an optics system provided as part of a housing to capture images of the event when directed toward the event.

13. The portable wireless handheld device of claim 26, further comprising an optics system provided as part of a housing to capture images of the event when directed toward the event, the optics system comprising a charge coupled device and being configured to provide a plurality of magnified modes of operation.

20. The portable wireless handheld device of claim 26, wherein the display is

configured for viewing by a user when engaged with the user's face.

22. The portable wireless handheld device of claim 31, wherein the processor is configured to provide conditional access to the event content based upon a unique access code.

23. The portable wireless handheld device of claim 31, further comprising a user input selectably operable by a user to control the images and sounds provided to the display and audio system.

26. A portable wireless handheld device to be used at an event by a user while watching the event live, the portable wireless handheld device comprising:

a receiver to receive video content transmitted wirelessly to the receiver, the video content being generated by a plurality of cameras located at the event, the video content relating to the event;

a user interface having inputs to permit a user to select the video content from at least one of the plurality of cameras and having an input to permit the user to select, for storage in the device, a user-designated portion of the video content from the selected one of the plurality of cameras;

a processor selectably operated by a user to select video content from at least one of the plurality of cameras;

a display to display video content from at least one of the plurality of cameras selected by the user, wherein the receiver is configured to receive the video content while at the event and where the event is occurring, thereby permitting the user to carry the portable wireless handheld device about the event and choose where to view the video content selected by the user while roaming at the event during the event; and

a memory component to store a user-designated portion of the video content, wherein the user-designated portion of the video content to be stored in the memory component is selected and entered by the user through the user interface.

27. The portable wireless handheld device of claim 26, wherein the user interface permits the user to selectively store single individual images, to be reviewed again and again on the display as desired by the user.

28. The portable wireless handheld device of claim 26, further comprising an optics system that, when directed toward the event, provides binocular functionality, the display displaying video content from the receiver when in a video viewer mode and a magnified view of the event as detected by the optics system when in a binocular mode.

29. The portable wireless handheld device of claim 26, further comprising an optics system that, when directed toward the event, provides binocular functionality, the display displaying a magnified view of the event as detected by the optics system when in a binocular mode, the user interface including inputs to select between different magnification levels at which the magnified view of the event is presented on the display.

30. The portable wireless handheld device of claim 26, further comprising an optics system to detect user-controlled video content separate and independent from the video content produced by the plurality of cameras and received by the receiver.

31. A portable wireless handheld device to be used at a local event by a user while watching the local event live, the portable wireless handheld device comprising:

a receiver to receive video content transmitted wirelessly to the receiver, the video content being generated by a plurality of cameras located at the local event, the video content relating to the local event;

an optics system that, when directed toward the local event, provides binocular functionality to produce magnified video content separate and independent from the video content produced by the plurality of cameras and received by the receiver;

a user interface having inputs to permit a user to select the video content from at least one of the plurality of cameras and the magnified video content from the optics system;

a processor selectably operated by a user to select video content from at least one of the plurality of cameras; and

a display to display video content from at least one of the plurality of cameras selected by the user and to display the magnified video content from the optics system, wherein the receiver is configured to receive the video content while at the local event and where the local event is occurring, thereby permitting the user to carry the portable wireless handheld device about the local event and choose where to view the video content selected by the user while roaming at the local event during the local event.

32. A portable wireless handheld device to be used at a local event by a user while watching the local event live, the portable wireless handheld device comprising:

a receiver to receive video content transmitted wirelessly to the receiver, the video content being generated by a plurality of cameras located at the local event, the video content relating to the local event;

a digital camera, provided in the handheld housing, for capturing at least one of images and video;

a processor selectably operated by a user to select video content from at least one of the plurality of cameras;

a user interface having inputs to permit a user to select the video content from at least one of the plurality of cameras, the user interface having inputs to operate the digital camera;

a display to display video content from at least one of the plurality of cameras selected by the user, wherein the receiver is configured to receive the video content while at the local event and where the event is occurring, thereby permitting the user to carry the portable wireless handheld device about the local event and choose where to view the video content selected by the user while roaming at the event during the local event; and

the processor operating in a plurality of modes, wherein the plurality of modes comprises

each of a video viewer mode, and a digital camera mode.

33. A portable wireless handheld device to be used at a local event by a user while watching the local event live, where a remote event occurs simultaneously with the local event, the remote event occurring at a venue remote from the local event, the portable wireless handheld device comprising:

- a handheld housing;

- a receiver, provided in the handheld housing, to wirelessly receive live local event-related video content and live remote event-related video content, the live local event-related video content being generated by a plurality of cameras located at the local event and relating to the local event, the live remote event-related video content being generated at the remote event and relating to the remote event, wherein the receiver is configured to receive the live local and remote event-related video content while at the local event and where the local event is occurring, thereby permitting the user to carry the portable wireless handheld device about the local event and choose where to view a selected one of the live local and remote event-related video content while roaming at the local event during the local event;

- a digital camera, provided in the handheld housing, for capturing at least one of images and video;

- a user interface, provided on the handheld housing, having inputs to permit a user to select between the live local event-related video content and the live remote event-related video content, the user interface having inputs to operate the digital camera;

- a display, the display displaying the live local event-related video content when selected by the user, the display displaying the live remote event-related video content when selected by the user, the display displaying the at least one of images and video captured by the digital camera when selected by the user; and

- a processor, provided in the handheld housing, to control operation of the display based on inputs from the user through the user interface.

34. The portable wireless handheld device of claim 33, wherein the processor operates in a plurality of modes, wherein the plurality of modes comprises each of a video viewer mode, a binocular viewer mode, a digital camera mode and a camcorder mode.

35. The portable wireless handheld device of claim 26, wherein the receiver wirelessly receives live remote event-related video content generated at a remote event and relating to the remote event, the remote event occurring simultaneously with the local event, the remote event occurring at a venue remote from the local event, the display displaying the live remote event-related video content when selected at the user interface.

36. The portable wireless handheld device of claim 31, wherein the receiver wirelessly receives live remote event-related video content generated at a remote event and relating to the remote event, the remote event occurring simultaneously with the local event, the remote event occurring at a venue remote from the local event, the display displaying the live remote event-related video content when selected at the user interface.

37. The portable wireless handheld device of claim 32, wherein the receiver wirelessly receives live remote event-related video content generated at a remote event and relating to the remote event, the remote event occurring simultaneously with the local event, the remote event occurring at a venue remote from the local event, the display displaying the live remote event-related video content when selected at the user interface.

38. The portable wireless handheld device of claim 33, wherein the local and remote events constitute a common type of sporting event.

39. The portable wireless handheld device of claim 33, wherein the local and remote events both constitute football games.

40. The portable wireless handheld device of claim 35, wherein the local and remote events constitute a common type of sporting event.

41. The portable wireless handheld device of claim 35, wherein the local and remote events both constitute football games.

42. The portable wireless handheld device of claim 36, wherein the local and remote events constitute a common type of sporting event.

43. The portable wireless handheld device of claim 36, wherein the local and remote events both constitute football games.

44. The portable wireless handheld device of claim 33, wherein the digital camera further comprising a charge coupled device as part of the handheld housing to capture the images of the event when directed toward the event, the charge coupled device being controlled by the processor to provide a zoom capability.

45. The portable wireless handheld device of claim 32, wherein the digital camera further comprising a charge coupled device as part of the handheld housing to capture the images of the event when directed toward the event, the charge coupled device being controlled by the processor to provide a zoom capability.

IX. EVIDENCE APPENDIX

None.

X. RELATED PROCEEDINGS APPENDIX

None.